



FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket Nos. AB 1106X; AB 6 (Sub-No. 488X)]

ABE Fairmont, LLC—Abandonment Exemption—in Fillmore County, Neb.; BNSF Railway Company—Discontinuance of Service Exemption—in Fillmore County, Neb.

On July 7, 2014, ABE Fairmont, LLC (ABE), and BNSF Railway Company (BNSF) (collectively, Petitioners) jointly filed a petition requesting exemptions under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903. ABE requests an exemption to permit it to abandon approximately 2.77 miles of rail line between milepost 0.93 near the east-west mainline of BNSF Railway Company (BNSF) at Fairmont, Neb., and milepost 3.70 at the north property line of Fillmore County Road H near Fairmont, Neb. (the Line). The Line extends southward from a connection with BNSF's east-west main line (at BNSF milepost 114.73) at Fairmont, Fillmore County, Neb. BNSF requests an exemption to permit it to discontinue its trackage rights operations over approximately 0.77 miles of the Line between milepost 0.93 and milepost 1.70, near Fairmont. The Line traverses United States Postal Zip Code 68354.

On July 24, 2014, these proceedings were held in abeyance at Petitioners' request pending discussions between Petitioners and The Andersons, Inc. d/b/a O'Malley Grain Company (The Andersons), a shipper that receives service over the Line via a private spur line that it owns and that connects to the Line.

On June 16, 2017, Petitioners informed the Board that the matters that prompted the abeyance request had been resolved and requested that the proceedings be reinstated on the Board's active docket. On August 17, 2017, the Board removed the proceeding

from abeyance and requested additional information. On September 26, 2017, Petitioners filed a supplement to their July 2014 petition. Petitioners propose that ABE abandon (and BNSF discontinue service over part of) the Line but that BNSF continue to provide contract carriage over it outside the Board's jurisdiction. Petitioners assert that the two shippers on the Line, Flint Hill Resources Fairmont, LLC (FHR-Fairmont), and The Andersons, would continue to be served by BNSF pursuant to contract and that one of those shippers, FHR-Fairmont, intends to purchase the Line following abandonment.

Petitioners state that based on the information in their possession, the Line does not contain any federally granted rights-of-way. They state that any documentation in their possession will be made available promptly to those requesting it.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance of service shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by February 2, 2018.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a \$1,800 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment, the Line may be suitable for other public use, including interim trail use.¹ Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than January 4, 2018. Each trail request must be accompanied by a \$300 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to Docket No. AB 1106X and Docket No. AB 6 (Sub-No. 488X) and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001; (2) Karl Morell, 655 Fifteenth Street, N.W., Suite 225, Washington, D.C. 20005; and (3) Thomas McFarland, 208 South LaSalle Street, Suite 1890, Chicago, Ill. 60604. Replies to this petition are due on or before January 4, 2018.

Persons seeking further information concerning abandonment and discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment and discontinuance regulations at 49 CFR Part 1152. Assistance for the hearing impaired is available through the Federal Information Relay Service at 1-800-877-8339.

An environmental assessment (EA) prepared by OEA was served upon all parties of record, among others, on November 24, 2017. Other interested persons may contact OEA to obtain a copy of the EA, and it is available on the Board's website at

¹ As noted above, however, following abandonment of the Line as common carrier track, Petitioners propose that BNSF service will continue over the Line under contract.

www.stb.gov. The deadline for submission of comments on the EA is December 22, 2017.

Board decisions and notices are available on our website at WWW.STB.GOV.

Decided: December 12, 2017.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

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